

# Senate Daily Reader

**Wednesday, February 22, 2006**

Bills Included				
HB 1015	HB 1020	HB 1081	HB 1093	HB 1119
HB 1129	HB 1143	HB 1154	HB 1167	HB 1180
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# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

527M0321

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1015** - 02/14/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to acquire an equestrian  
2 facility for South Dakota State University and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Board of Regents shall select a site for equestrian facilities including  
5 approximately fifty-seven thousand square feet of buildings, ninety-five thousand square feet  
6 of site improvements, and approximately fifteen acres of pasture development from within the  
7 lands acquired pursuant to section 3, chapter 96, of the 2001 Session Laws. The board shall  
8 lease that site, together with such portions of surrounding grounds as may be needed for  
9 construction purposes, to the South Dakota State University Foundation to permit the foundation  
10 to construct the structures to house the equestrian facilities.

11 Section 2. In consideration for the lease authorized in section 1 of this Act, the foundation  
12 shall construct the project in accordance with the requirements of chapters 5-14 and 5-18 just  
13 as though the structures and improvements comprising the equestrian facilities were constructed  
14 by the Board of Regents. However, the foundation shall enter into all contracts for the  
15 construction of the facility and make all payments therefor, once the payments have been duly



1 authorized by the Bureau of Administration and the executive director of the Board of Regents.

2 Section 3. The term of the lease authorized in section 1 of this Act may not exceed the time  
3 required for site preparation and construction through project acceptance plus ten years from the  
4 date of acceptance.

5 Section 4. The Board of Regents shall lease the equestrian facilities constructed pursuant to  
6 this Act from the foundation for a period of ten years from the date of acceptance at an annual  
7 lease payment of one hundred sixty-five thousand dollars.

8 Section 5. The South Dakota State University Foundation shall maintain and repair the  
9 equestrian facilities during the term of the leaseback.

10 Section 6. Upon termination of the lease and leaseback authorized by the Act, the foundation  
11 shall donate the facility and all right or interest that it may have in the equestrian facilities to the  
12 Board of Regents, on behalf of the State of South Dakota, for the use and benefit of South  
13 Dakota State University and the Board of Regents may accept the equestrian facilities on behalf  
14 of the State of South Dakota, for the use and benefit of South Dakota State University.

15 Section 7. No general fund dollars may be used for the maintenance and repair or lease  
16 payments of the facility authorized by this Act.

17 Section 8. Whereas, this Act is necessary for the support of the state government and its  
18 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
19 full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0344

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1020** - 02/17/2006

Introduced by: The Committee on Education at the request of the Bureau of Finance and  
Management

1 FOR AN ACT ENTITLED, An Act to reappropriate certain moneys to state aid to general  
2 education.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Notwithstanding the provisions of § 4-8-19, any unencumbered funds in the  
5 amount of seven million two hundred thousand dollars (\$7,200,000), or so much thereof as may  
6 be available, that was appropriated from the state general fund by section 11, chapter 30, of the  
7 2005 Session Laws for state aid to general education is hereby reappropriated to the Department  
8 of Education for state fiscal year 2007.

9 Section 2. The effective date of this Act is June 21, 2006.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

771M0416

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1081** - 01/31/2006

Introduced by: Representatives Dykstra, Cutler, Frost, Fryslie, Garnos, Glover, Hackl, Howie, Olson (Ryan), Rausch, Sigdestad, Street, Van Etten, and Weems and Senators Peterson (Jim), Bartling, Duniphan, Hansen (Tom), Hanson (Gary), Hundstad, Koskan, Lintz, McCracken, McNenny, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to exempt from the sales and use taxes certain maintenance  
2 items used on agricultural machinery and equipment and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-45-3.4 be amended to read as follows:

5 10-45-3.4. There are exempted from the provisions of this chapter and the tax imposed by  
6 it, gross receipts from the sale of ~~parts~~ the following:

- 7 (1) Parts or repairs on machinery or equipment which are clearly identifiable as used  
8 primarily for agricultural purposes, including irrigation equipment, if the part  
9 replaces a farm machinery or irrigation equipment part assigned a specific or generic  
10 part number by the manufacturer of the farm machinery or irrigation equipment; and  
11 (2) Maintenance items and maintenance services used on machinery or equipment which  
12 are clearly identifiable as used primarily for agricultural purposes, including  
13 irrigation equipment.



1 Section 2. That § 10-46-17.6 be amended to read as follows:

2 10-46-17.6. There are exempted from the provisions of this chapter and the tax imposed by  
3 it, the use of ~~parts~~ the following:

4 (1) Parts or repairs on machinery or equipment which are clearly identifiable as used  
5 primarily for agricultural purposes, including irrigation equipment, if the part  
6 replaces a farm machinery or irrigation equipment part assigned a specific or generic  
7 part number by the manufacturer of the farm machinery or irrigation equipment; and

8 (2) Maintenance items and maintenance services used on machinery or equipment which  
9 are clearly identifiable as used primarily for agricultural purposes, including  
10 irrigation equipment.

11 Section 3. Whereas, this Act is necessary for the support of the state government and its  
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
13 full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

444M0590

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1093** - 02/15/2006

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Van Norman, Bradford, Elliott, Gillespie, Glover, Haley, Halverson, Hargens, Kroger, Lange, Miles, Roberts, Sigdestad, Street, Thompson, and Valandra and Senator Two Bulls

1 FOR AN ACT ENTITLED, An Act to establish certain criteria regarding the construction and  
2 sale of homes by a state agency or the South Dakota Housing Development Authority.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Any program established by any state agency or the South Dakota Housing  
5 Development Authority for the primary purpose of constructing or selling homes shall meet the  
6 following conditions:

7 (1) The home to be constructed or sold does not exceed eight hundred square feet;

8 (2) The purchaser of the home is either disabled as defined in subdivision 10-6A-1(4) or  
9 sixty-two years of age or older, or both;

10 (3) The home will be the primary residence of the purchaser;

11 (4) The home will not be placed in a municipality with a population of five thousand or  
12 more;

13 (5) The purchaser of the home has a household income that does not exceed sixty-five  
14 percent of the median household income of the county where the person is placing



1           the house; and

2       (6)    The purchaser of the home has a net worth that does not exceed a value that is twice

3           the median household income of the county where the person is placing the house.

4       This section does not apply to any home owned, purchased, or received by any state agency

5   or the South Dakota Housing Development Authority for another purpose.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

295M0435

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1119** - 02/17/2006

Introduced by: Representatives Rounds, Cutler, Gillespie, Hargens, Hennies, O'Brien, and  
Rave and Senators Moore, Gray, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to repeal certain mandatory minimum sentences for driving  
2 under the influence, to expand those substances under which a person may be found to be  
3 under the influence, and to revise certain driving under the influence provisions for clarity  
4 and consistency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 32-23-1 be amended to read as follows:

7 32-23-1. No person may drive or be in actual physical control of any vehicle while:

- 8 (1) There is 0.08 percent or more by weight of alcohol in that person's blood as shown  
9 by chemical analysis of that person's breath, blood, or other bodily substance;
- 10 (2) Under the influence of an alcoholic beverage, marijuana, or any controlled drug or  
11 substance not obtained pursuant to a valid prescription, or any combination of an  
12 alcoholic beverage, marijuana, or such controlled drug or substance;
- 13 (3) Under the influence of ~~marijuana~~ or any controlled drug or substance obtained  
14 pursuant to a valid prescription, or any other substance, to a degree which renders the  
15 person incapable of safely driving; ~~or~~



(4) Under the combined influence of an alcoholic beverage and ~~marijuana~~ or any controlled drug or substance obtained pursuant to a valid prescription, or any other substance, to a degree which renders the person incapable of safely driving; or

(5) Under the influence of any substance ingested, inhaled, or otherwise taken into the body as prohibited by § 22-42-15.

Section 2. That § 32-23-1.1 be amended to read as follows:

32-23-1.1. A law enforcement officer may, without a warrant, arrest a person for a violation of the provisions of § 32-23-1 when ~~he~~ the officer has probable cause to believe that the person to be arrested has been involved in a traffic accident and has violated the provisions of § 32-23-1 and that such violation occurred prior to or immediately following such traffic accident.

Section 3. That § 32-23-1.2 be amended to read as follows:

32-23-1.2. Every person operating a ~~motor~~ vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a law enforcement officer, submit to a breath test to be administered by such officer. If such test indicates that such operator has consumed alcohol, the law enforcement officer may require such operator to submit to a chemical test in the manner set forth in this chapter.

Section 4. That § 32-23-2 be amended to read as follows:

32-23-2. If conviction for a violation of § 32-23-1 is for a first offense, such person is guilty of a Class 1 misdemeanor, and the defendant's driving privileges shall be revoked for not less than thirty days. However, the court may in its discretion issue an order upon proof of financial responsibility, pursuant to § 32-35-113, permitting the person to operate a ~~motor~~ vehicle for purposes of ~~the person's~~ employment, attendance at school, or attendance at ~~court-ordered~~ counseling programs ~~during the hours of the day and the days of the week as set forth in the~~ order. The court may also order the revocation of the defendant's driving privilege for a further

1 period not to exceed one year or restrict the privilege in such manner as it sees fit for a period  
2 not to exceed one year.

3 Section 5. That § 32-23-2.1 be amended to read as follows:

4 32-23-2.1. Any person convicted of a first offense pursuant to ~~§ 32-23-2~~ § 32-23-1 with a  
5 0.17 percent or more by weight of alcohol in ~~his~~ the person's blood shall, in addition to the  
6 penalties provided in § 32-23-2, be required to undergo a court-ordered evaluation to determine  
7 if the defendant ~~has an addiction to alcohol~~ is chemically dependent. The cost of such evaluation  
8 shall be paid by the defendant.

9 Section 6. That § 32-23-3 be amended to read as follows:

10 32-23-3. If conviction for a violation of § 32-23-1 is for a second offense, such person is  
11 guilty of a Class 1 misdemeanor, and the court shall, in pronouncing sentence, unconditionally  
12 revoke the defendant's driving privilege for a period of not less than one year. However, upon  
13 the successful completion of a court-approved ~~alcohol treatment~~ chemical dependency program,  
14 and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person  
15 to drive for the ~~purpose~~ purposes of employment ~~and may restrict the privilege by the imposition~~  
16 ~~of such conditions as the court sees fit, attendance at school, or attendance at counseling~~  
17 programs. If such person is convicted of driving without a license during that period, the person  
18 shall be sentenced to the county jail for not less than three days, which sentence may not be  
19 suspended.

20 Section 7. That § 32-23-4 be amended to read as follows:

21 32-23-4. If conviction for a violation of § 32-23-1 is for a third offense, the person is guilty  
22 of a Class 6 felony, and the court, in pronouncing sentence, shall ~~unconditionally revoke the~~  
23 ~~defendant's driving privileges for such period of time as may be determined by the court, but in~~  
24 ~~no event less than one year from the date sentence is imposed or one year from the date of~~

1 ~~discharge from incarceration~~ order that the driver's license of any person so convicted be  
2 revoked for a period of not less than one year from the date sentence is imposed or one year  
3 from the date of initial release from imprisonment, whichever is later. In the event the person  
4 is returned to imprisonment prior to the completion of the period of driver's license revocation,  
5 time spent imprisoned does not count toward fulfilling the period of revocation. If the person  
6 is convicted of driving without a license during that period, he shall be sentenced to the county  
7 jail for not less than ten days, which sentence may not be suspended. Notwithstanding § 23A-  
8 27-19, the court retains jurisdiction to modify the conditions of the license revocation for the  
9 term of such revocation. Upon the successful completion of a court-approved chemical  
10 dependency counseling program, and proof of financial responsibility pursuant to § 32-35-113,  
11 the court may permit the person to operate a vehicle for the purposes of employment, attendance  
12 at school, or attendance at counseling programs.

13 Section 8. That § 32-23-4.3 be amended to read as follows:

14 32-23-4.3. The plea and election of method of trial by the accused shall be first taken only  
15 on the first part of the information described in § 32-23-4.2 but before a plea is made the  
16 accused shall be informed by the judge, in absence of the jury, of the contents of ~~his~~ the second  
17 part. There shall be entered in the minutes of the court the time and place when and where the  
18 judge so informed the accused, and like entry thereof shall be made in the judgment.

19 Section 9. That § 32-23-4.4 be amended to read as follows:

20 32-23-4.4. On a finding of guilty on the first part of the information described in § 32-23-4.2  
21 a plea shall be taken and, if necessary, an election made on the second part and a trial thereon  
22 proceeded with, and until such time no information as to the second part of the information ~~shall~~  
23 may be divulged to the jury. If the accused ~~shall have elected~~ elects a jury trial in the second part  
24 of the information, such trial may be had to the same or another jury as the court may direct.

Section 10. That § 32-23-4.6 be amended to read as follows:

32-23-4.6. If conviction for a violation of § 32-23-1 is for a fourth offense and the person has previously been convicted of a felony under § 32-23-4, the person is guilty of a Class 5 felony, and the court, in pronouncing sentence, shall ~~unconditionally revoke the defendant's driving privileges for such period of time as may be determined by the court, but in no event less than two years from the date sentence is imposed or two years from the date of discharge from incarceration~~ order that the driver's license of any person so convicted be revoked for a period of not less than two years from the date sentence is imposed or two years from the date of initial release from imprisonment, whichever is later. In the event the person is returned to imprisonment prior to the completion of the period of driver's license revocation, time spent imprisoned does not count toward fulfilling the period of revocation. If the person is convicted of driving without a license during that period, the person shall be sentenced to the county jail for not less than twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the license revocation for the term of such revocation. Upon the successful completion of a court-approved chemical dependency counseling program, and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person to operate a vehicle for the purposes of employment, attendance at school, or attendance at counseling programs.

Section 11. That § 32-23-4.7 be amended to read as follows:

32-23-4.7. If conviction for violation of § 32-23-1 is for a fifth offense, or subsequent offenses thereafter, and the person has previously been convicted of a felony under § 32-23-4, the person is guilty of a Class 4 felony and the court, in pronouncing sentencing, shall ~~unconditionally revoke the defendant's driving privileges for such period of time as may be determined by the court, but in no event less than two years from the date sentence is imposed~~

1 ~~or two years from the date of discharge from incarceration~~ order that the driver's license of any  
2 person so convicted be revoked for a period of not less than three years from the date sentence  
3 is imposed or three years from the date of initial release from imprisonment, whichever is later.  
4 In the event the person is returned to imprisonment prior to the completion of the period of  
5 driver's license revocation, time spent imprisoned does not count toward fulfilling the period  
6 of revocation. If the person is convicted of driving without a license during that period, the  
7 person shall be sentenced to the county jail for not less than twenty days, which sentence may  
8 not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the  
9 conditions of the license revocation for the term of such revocation. Upon the successful  
10 completion of a court-approved chemical dependency counseling program, and proof of  
11 financial responsibility pursuant to § 32-35-113, the court may permit the person to operate a  
12 vehicle for the purposes of employment, attendance at school, or attendance at counseling  
13 programs.

14 Section 12. That § 32-23-6 be amended to read as follows:

15 32-23-6. The fact that any person charged with a violation of § 32-23-1 is or has been  
16 ~~entitled to use~~ prescribed a drug under the laws of this state ~~shall~~ is not ~~constitute~~  
17 against any charge of violating ~~said section~~ § 32-23-1.

18 Section 13. That § 32-23-7 be amended to read as follows:

19 32-23-7. In any criminal prosecution for a violation of § 32-23-1 relating to driving a vehicle  
20 while under the influence of ~~intoxicating liquor~~ an alcoholic beverage, a violation of § 22-16-41,  
21 or a violation of § 22-16-42, the amount of alcohol in the defendant's blood at the time alleged  
22 as shown by chemical analysis of the defendant's blood, breath, or other bodily substance gives  
23 rise to the following presumptions:

24 (1) If there was at that time five hundredths percent or less by weight of alcohol in the

defendant's blood, it is presumed that the defendant was not under the influence of ~~intoxicating liquor~~ an alcoholic beverage;

(2) If there was at that time in excess of five hundredths percent but less than eight hundredths percent by weight of alcohol in the defendant's blood, such fact does not give rise to any presumption that the defendant was or was not under the influence of ~~intoxicating liquor~~ an alcoholic beverage, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant;

(3) If there was at that time eight hundredths percent or more by weight of alcohol in the defendant's blood, it is presumed that the defendant was under the influence of ~~intoxicating liquor~~ an alcoholic beverage.

Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 1.0 cubic ~~centimeters~~ centimeter of whole blood or 2100 cubic centimeters of deep lung breath.

Section 14. That § 32-23-8 be amended to read as follows:

32-23-8. The provisions of § 32-23-7 ~~shall~~ may not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of ~~intoxicating liquor~~ an alcoholic beverage.

Section 15. That chapter 32-23 be amended by adding thereto a NEW SECTION to read as follows:

Any driving permit issued by the court to any person, who has been convicted of a violation of § 32-23-1 within the last ten years or any driving permit issued pursuant to § 32-23-2, if that person had 0.17 percent or more by weight of alcohol in that person's blood, shall be conditioned on the person's total abstinence from the use of alcohol. The court shall immediately revoke the permit upon a showing of proof by a preponderance of the evidence that the person has violated this condition.

Section 16. That § 22-16-41 be amended to read as follows:

22-16-41. Any person who, while under the influence of an alcoholic beverage, any controlled drug or substance, marijuana, or a combination thereof, without design to effect death, operates or drives a motor vehicle of any kind in a negligent manner and thereby causes the death of another person, including an unborn child, is guilty of vehicular homicide. Vehicular homicide is a Class 3 felony. In addition to any other penalty prescribed by law, the court ~~may also order that the driver's license of any person convicted of vehicular homicide be revoked for such period of time as may be determined by the court~~ shall order that the driver's license of any person convicted of vehicular homicide be revoked for a period of not less than ten years from the date sentence is imposed or ten years from the date of initial release from imprisonment, whichever is later. In the event the person is returned to imprisonment prior to the completion of the period of driver's license revocation, time spent imprisoned does not count toward fulfilling the period of revocation.

Section 17. That § 22-18-36 be amended to read as follows:

22-18-36. Any person who, while under the influence of an alcoholic beverage, any controlled drug or substance, marijuana, or a combination thereof, without design to effect serious bodily injury, operates or drives a motor vehicle of any kind in a negligent manner and thereby causes the serious bodily injury of another person, including an unborn child, is guilty of vehicular battery. Vehicular battery is a Class 4 felony. In addition to any other penalty prescribed by law, the court ~~may also order that the driver's license of any person convicted of vehicular battery be revoked for a period of two years subsequent to release from incarceration~~ shall order that the driver's license of any person convicted of vehicular battery be revoked for a period of not less than three years from the date sentence is imposed or three years from the date of initial release from imprisonment, whichever is later. In the event the person is returned

- 1 to imprisonment prior to the completion of the period of driver's license revocation, time spent
- 2 imprisoned does not count toward fulfilling the period of revocation.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

159M0002

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1129** - 02/07/2006

Introduced by: Representatives Peters, Dykstra, Hackl, Haverly, Heineman, Hunhoff, O'Brien, Putnam, Rausch, Rave, Rhoden, Rounds, Schafer, Tidemann, Vehle, Wick, and Willadsen and Senators McCracken, Bogue, Dempster, Duniphan, Earley, Gant, Gray, Hansen (Tom), Kelly, Kooistra, Olson (Ed), and Smidt

1 FOR AN ACT ENTITLED, An Act to exempt certain facilities used for business incubators  
2 from property taxation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any facility operated as a multi-tenant business incubator and owned by an entity recognized  
7 as an exempt nonprofit corporation pursuant to section 501(c)(3), 501(c)(4), or 501(c)(6) of the  
8 Internal Revenue Code as of January 1, 2006, is exempt from property taxation. A business  
9 incubator is any facility that supports the development and operation of a number of small start-  
10 up businesses. Tenants of the facility may share a number of support services and the tenants  
11 may receive technical assistance, business planning, legal, financial, and marketing advice. If  
12 any portion of the facility is occupied by an incubated business for more than five years, that  
13 portion of the facility shall be taxed as other property of the same class is taxed.

14 Section 2. That § 10-4-15 be amended to read as follows:



1        10-4-15. Any person, organization, corporation, or association claiming a property tax  
2        exemption status for any property under section 1 of this Act or §§ 10-4-9 to 10-4-14, inclusive,  
3        or as may otherwise be provided by law, shall apply for such exemption to the county director  
4        of equalization on forms prescribed by the secretary of revenue and regulation prior to  
5        November first of the tax year.

6        Section 3. That § 13-13-20.4 be amended to read as follows:

7        13-13-20.4. The actual assessed valuation of any property given a reduced valuation  
8        pursuant to §§ 10-6-35.1, 10-6-35.2, 10-6-35.4, 10-6-35.21, 10-6-35.22, 10-6-35.24, 10-6-35.25,  
9        10-6-54, 10-6-55, 10-6-66, and 10-6-67 shall be used when calculating state aid to education.  
10       For any property given a reduced valuation after November 1995, pursuant to §§ 10-6-35.1, 10-  
11       6-35.2, 10-6-35.4, 10-6-35.21, 10-6-35.22, 10-6-35.24, 10-6-35.25, 10-6-54, 10-6-55, 10-6-66,  
12       and 10-6-67 that has not previously received a reduced valuation pursuant to these statutes, the  
13       portion of actual assessed valuation of the property used when calculating state aid to education  
14       shall be twenty percent in the first year, forty percent in the second year, sixty percent in the  
15       third year, eighty percent in the fourth year, and one hundred percent each year thereafter. In  
16       addition, the actual assessed valuation of any property given exempt status pursuant to section  
17       1 of this Act shall be used when calculating state aid to education.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

696M0592

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1143** - 02/17/2006

Introduced by: Representatives Tidemann, Brunner, Dennert, Glenski, Haverly, Heineman, Hunhoff, Jensen, Klaudt, O'Brien, Peters, and Rausch and Senators Smidt, Bartling, Hanson (Gary), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to renovate Wecota Hall  
2 at South Dakota State University, and to make an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
5 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
6 electric facilities, architectural and engineering services, asbestos abatement, and such other  
7 services as may be required to renovate Wecota Hall at South Dakota State University, in  
8 Brookings, Brookings County, at an estimated cost of two million dollars (\$2,000,000).

9 Section 2. There is hereby appropriated two million dollars (\$2,000,000) for the purpose of  
10 constructing the facility described in section 1 of this Act from federal and grant funds awarded  
11 to the South Dakota State University.

12 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for  
13 these purposes from federal sources, gifts, contributions, or any other source except general  
14 funds, all of which shall be deemed appropriated to the project authorized by this Act.



1       Section 4. No general fund dollars may be used for the maintenance and repair or lease  
2       payments of the facility authorized by this Act.

3       Section 5. The design and construction of the facilities approved by this Act shall be under  
4       the general supervision of the Bureau of Administration as provided in § 5-14-2. The  
5       commissioner of the Bureau of Administration and the executive director of the Board of  
6       Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
7       authorized by this Act.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

771M0417

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1154** - 02/02/2006

Introduced by: Representatives Dykstra, Dennert, Faehn, Fryslie, Haley, Halverson, Hargens, Jensen, McCoy, Miles, Novstrup, Rhoden, Sigdestad, and Street and Senators Peterson (Jim), Bartling, Duenwald, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Hundstad, Koskan, Lintz, McNenny, Olson (Ed), Smidt, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to impose an excise tax on the gross receipts from the sale  
2 and use of farm machinery, farm attachment units, and irrigation equipment, to exempt the  
3 gross receipts from the sale of farm machinery, farm attachment units, and irrigation  
4 equipment from sales and use tax, and to declare an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. There is hereby imposed an excise tax of four percent on the gross receipts from  
7 the sale, resale, or lease of farm machinery, attachment units, and irrigation equipment used  
8 exclusively for agricultural purposes. However, if any trade-in or exchange of used farm  
9 machinery, attachment units, and irrigation equipment is involved in the transaction, the excise  
10 tax is only due and may only be collected on the cash difference.

11 Section 2. An excise tax is hereby imposed on the privilege of the use, storage, and  
12 consumption in this state of farm machinery, attachment units, and irrigation equipment used  
13 exclusively for agricultural purposes purchased or leased for use in this state at the same rate



1 of the purchase price of said property as imposed pursuant to section 1 of this Act.

2 Section 3. An excise tax is imposed at the same rate as imposed by section 1 of this Act on  
3 the privilege of the use, storage, or consumption in this state of farm machinery, attachment  
4 units, and irrigation equipment used exclusively for agricultural purposes not originally  
5 purchased for use in this state, but thereafter used, stored, or consumed in this state, at the same  
6 rate as provided in section 1 of this Act and imposed on the fair market value of the property  
7 at the time it is brought into this state. However, if any trade-in or exchange of used farm  
8 machinery, attachment units, and irrigation equipment is involved in the transaction, the excise  
9 tax is only due and may only be collected on the cash difference. The use, storage, or  
10 consumption of farm machinery, attachment units, and irrigation equipment used exclusively  
11 for agricultural purposes that is more than seven years old at the time it is brought into the state  
12 by the person who purchased such property for use in another state is exempt from the tax  
13 imposed by this Act.

14 Section 4. For purposes of this Act, farm machinery, includes all-terrain vehicles of three  
15 or more wheels used exclusively by the purchaser for agricultural purposes on agricultural land.  
16 The purchaser shall sign and deliver to the seller a statement that the all-terrain vehicle will be  
17 used exclusively for agricultural purposes.

18 Section 5. Farm machinery and attachment units, other than replacement parts, and irrigation  
19 equipment sold at public auction shall be taxed pursuant to section 1 of this Act without regard  
20 to its intended use.

21 Section 6. The tax imposed by section 1 of this Act shall be collected and administered by  
22 the Department of Revenue and Regulation.

23 Section 7. Any person who holds a license issued pursuant to this Act or chapters 10-33A,  
24 10-45, 10-45D, 10-46A, 10-46B, or 10-52A or who is a person whose receipts are subject to the

1 tax imposed by or this Act or chapters 10-33A, 10-45, 10-45D, 10-46A, 10-46B, or 10-52A  
2 shall, except as otherwise provided in this section, file a return, and pay any tax due, to the  
3 Department of Revenue and Regulation on or before the twentieth day of the month following  
4 each monthly period. The return shall be filed on forms prescribed and furnished by the  
5 department.

6 If the person remits the tax by electronic transfer to the state, the person shall file the return  
7 by electronic means on or before the twenty-third day of the month following each monthly  
8 period and remit the tax on or before the second to the last day of the month following each  
9 monthly period.

10 The secretary may require or allow a person to file a return, and pay any tax due, on a basis  
11 other than monthly and the return and remittance is due the last day of the month following the  
12 reporting period, or at time otherwise determined by the secretary.

13 The secretary of revenue and regulation may grant an extension of not more than five days  
14 for filing a return and remittance. However, the secretary of revenue and regulation may grant  
15 an extension for remitting the tax to a qualified business as provided in §§ 10-45-99 to 10-45-  
16 107, inclusive, for six months.

17 Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return  
18 or remittance is not made on time.

19 Section 8. Where applicable and not inconsistent with this Act, the provisions of chapters  
20 10-45 and 10-46, including the exemption, definition, administrative, collection, and  
21 enforcement provisions, including penalty and interest, are applicable to the tax imposed by this  
22 Act.

23 Section 9. The revenue from the tax imposed by this Act shall be deposited in the general  
24 fund.

1       Section 10. There are exempted from the tax imposed by this Act, gross receipts from the  
2       rental of devices primarily used to apply fertilizers and pesticides as defined in § 38-20A-1, for  
3       agricultural purposes, if the tax imposed by this Act was paid upon the original purchase of the  
4       device.

5       Section 11. The secretary of revenue and regulation may promulgate rules pursuant to  
6       chapter 1-26 concerning:

- 7       (1)    Licensing, including bonding and filing license applications;
- 8       (2)    The filing of returns and payment of the tax;
- 9       (3)    Determining the application of the tax and exemptions;
- 10      (4)    Taxpayer record-keeping requirements;
- 11      (5)    Determining auditing methods; and
- 12      (6)    Determining the age and value of the farm machinery, attachment units, and  
13            irrigation equipment brought into this state.

14      Section 12. Any person who:

- 15      (1)    Makes any false or fraudulent return in attempting to defeat or evade the tax imposed  
16            by this Act is guilty of a Class 6 felony;
- 17      (2)    Fails to pay tax due under this Act within thirty days from the date the tax becomes  
18            due is guilty of a Class 1 misdemeanor;
- 19      (3)    Fails to keep the records and books required by this Act or refuses to exhibit these  
20            records to the secretary of revenue or the secretary's agents for the purpose of  
21            examination is guilty of a Class 1 misdemeanor;
- 22      (4)    Fails to file a return required by this Act within thirty days from the date the return  
23            is due is guilty of a Class 1 misdemeanor;
- 24      (5)    Willfully violates any rule of the secretary of revenue for the administration and

1 enforcement of the provisions of this Act is guilty of a Class 1 misdemeanor; or

2 (6) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-  
3 month period is guilty of a Class 6 felony.

4 For purposes of this section, the term, person, includes an officer, member, member-  
5 manager, partner, general partner, or limited partner of an entity organized pursuant to Title 47  
6 or 48 who has control or supervision of, or is charged with the responsibility for, making tax  
7 returns or payments pursuant to this Act.

8 Section 13. That § 10-59-1 be amended to read as follows:

9 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes  
10 or fees imposed by, and to any civil or criminal investigation authorized by, chapters 10-39, 10-  
11 39A, 10-39B, 10-43, 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46C, 10-47B, 10-52, 10-52A,  
12 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48, 49-31-51, 50-4-13  
13 to 50-4-17, inclusive, this Act, and the provisions of chapter 10-45B.

14 Section 14. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 There are exempted from the provisions of this chapter and from the tax imposed by it, gross  
17 receipts from the sale, resale, or leasing of farm machinery, attachment units, and irrigation  
18 equipment used exclusively for agricultural purposes. The term, farm machinery, includes  
19 all-terrain vehicles of three or more wheels used exclusively by the purchaser for agricultural  
20 purposes on agricultural land. The purchaser shall sign and deliver to the seller a statement that  
21 the all-terrain vehicle will be used exclusively for agricultural purposes.

22 Section 15. That § 10-45-3 be repealed.

23 ~~10-45-3. There is hereby imposed a tax of four percent on the gross receipts from the sale~~  
24 ~~or resale of farm machinery and attachment units other than replacement parts; or irrigation~~

1 ~~equipment used exclusively for agricultural purposes by licensed South Dakota retailers.~~  
2 ~~However, if any trade-in or exchange of used farm machinery is involved in the transaction, the~~  
3 ~~tax is only due and shall be collected only on the cash difference.~~

4 Section 16. That § 10-45-3.2 be repealed.

5 ~~— 10-45-3.2. For purposes of § 10-45-3, farm machinery shall include all-terrain vehicles of~~  
6 ~~three or more wheels used exclusively by the purchaser for agricultural purposes on agricultural~~  
7 ~~land. The purchaser shall sign and deliver to the seller a statement that the all-terrain vehicle~~  
8 ~~will be used exclusively for agricultural purposes.~~

9 Section 17. That § 10-45-3.3 be repealed.

10 ~~— 10-45-3.3. Farm machinery and attachment units, other than replacement parts, and~~  
11 ~~irrigation equipment sold at public auction shall be taxed pursuant to § 10-45-3 without regard~~  
12 ~~to its intended use.~~

13 Section 18. That § 10-45-5 be amended to read as follows:

14 10-45-5. There is imposed a tax at the rate of four percent upon the gross receipts of any  
15 ~~person from engaging in the business of leasing farm machinery or irrigation equipment used~~  
16 ~~for agricultural purposes and~~ four percent upon the gross receipts of any person from engaging  
17 or continuing in any of the following businesses or services in this state: abstracters;  
18 accountants; architects; barbers; beauty shops; bill collection services; blacksmith shops; car  
19 washing; dry cleaning; dyeing; exterminators; garage and service stations; garment alteration;  
20 cleaning and pressing; janitorial services and supplies; specialty cleaners; laundry; linen and  
21 towel supply; membership or entrance fees for the use of a facility or for the right to purchase  
22 tangible personal property or services; photography; photo developing and enlarging; tire  
23 recapping; welding and all repair services, except farm machinery, farm attachment units, or  
24 irrigation equipment repair services; cable television; and rentals of tangible personal property

1 except leases of tangible personal property between one telephone company and another  
2 telephone company, motor vehicles as defined by § 32-5-1 leased under a single contract for  
3 more than twenty-eight days and mobile homes. However, the specific enumeration of  
4 businesses and professions made in this section does not, in any way, limit the scope and effect  
5 of § 10-45-4.

6 Section 19. That § 10-45-5.2 be amended to read as follows:

7 10-45-5.2. The following services enumerated in the Standard Industrial Classification  
8 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and  
9 Budget, Office of the President, are specifically subject to the tax levied by this chapter: metal  
10 mining services (group no. 108); coal mining (major group 12); nonmetallic minerals (except  
11 fuels) services (group no. 148); service industries for the printing trade (group no. 279); coating,  
12 engraving and allied services (group no. 347); communication, electric and gas services  
13 (division E except group nos. 483, 494 and 495); hotels, motels, and tourist courts (group no.  
14 701); rooming and boarding houses (group no. 702); camps and recreational vehicle parks  
15 (group no. 703); personal services (major group 72); business services (major group 73);  
16 automotive repair, services, and parking (major group 75); miscellaneous repair services (major  
17 group 76), except farm machinery, farm attachment units, or irrigation equipment repair  
18 services; amusement and recreation services (major group 79); legal services (major group 81);  
19 landscape and horticultural services (group no. 078); engineering, accounting, research,  
20 management, and related services (major group 87, except industry no. 8733); title abstract  
21 offices (group no. 654); consumer credit reporting agencies, mercantile reporting agencies, and  
22 adjustment and collection agencies (group no. 732); real estate agents and managers (group no.  
23 653); funeral service and crematories (group no. 726), except that purchases of goods or services  
24 with money advanced as an accommodation are retail purchases and are not includable in gross

1 receipts for funeral services and fees paid or donated for religious ceremonies are not includable  
2 in gross receipts for funeral services; loan brokers (industry no. 6163); repair shops and related  
3 services, not elsewhere classified (industry no. 7699) but only locksmiths and locksmith shops;  
4 and floor laying and other floor work not elsewhere classified (industry no. 1752). In addition,  
5 the following services are also specifically subject to the tax levied by this chapter: livestock  
6 slaughtering services; dog grooming services; airplane, helicopter, balloon, dirigible and blimp  
7 rides for amusement or sightseeing; the collection and disposal of solid waste; and all appraiser's  
8 services. The services enumerated in this section may not be construed as a comprehensive list  
9 of taxable services but rather as a representative list of services intended to be taxable under this  
10 chapter.

11 Section 20. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 There are exempted from the provisions of this chapter and from the tax imposed by it, gross  
14 receipts from the sale, resale, or lease of farm machinery, attachment units, and irrigation  
15 equipment used exclusively for agricultural purposes. The term, farm machinery, includes  
16 all-terrain vehicles of three or more wheels used exclusively by the purchaser for agricultural  
17 purposes on agricultural land. The purchaser shall sign and deliver to the seller a statement that  
18 the all-terrain vehicle will be used exclusively for agricultural purposes.

19 Section 21. That § 10-45-16.1 be amended to read as follows:

20 10-45-16.1. There are hereby specifically exempted from the provisions of this chapter and  
21 from the computation of the amount of tax imposed by it, gross receipts from the sale of  
22 pesticides, as defined in § 38-20A-1, to be used exclusively by the purchaser for agricultural  
23 purposes. Any product or substance to be used in conjunction with the application or use of  
24 pesticides for agricultural purposes is also exempt. ~~Such~~ The products or substances include;

1 ~~but are not limited to~~, adjuvants, surfactants, ammonium sulfate, inoculants, drift retardants,  
2 water conditioners, seed treatments, foam markers, and foam dyes. Equipment, other than farm  
3 machinery, attachment units, and irrigation equipment uses exclusively for agricultural purposes  
4 for the application of pesticides and related products and substances is not exempt. The tax  
5 imposed by this chapter on endoparasitocides and ectoparasitocides shall be deposited in the  
6 veterinary student tuition and animal disease research and diagnostic laboratory fund to be used  
7 for veterinary student tuition grants and the operations and activities conducted by the State  
8 Animal Disease Research and Diagnostic Laboratory established in § 13-58-13.

9 Section 22. That § 10-46-17.5 be amended to read as follows:

10 10-46-17.5. The use in this state of ~~insecticides, herbicides, pesticides, rodenticides, and~~  
11 ~~fungicides~~ as defined in § 38-20A-1 to be used exclusively for agricultural purposes is  
12 specifically exempted from the tax imposed by this chapter. Any product or substance to be used  
13 in conjunction with the application or use of pesticides for agricultural purposes is also exempt.  
14 These products or substances include adjuvants, surfactants, ammonium sulfate, inoculants, drift  
15 retardants, water conditioners, seed treatments, foam markers, and foam dyes. Equipment, other  
16 than farm machinery, attachment units, and irrigation equipment used exclusively for  
17 agricultural purposes, for the application of pesticides and related products and substances is not  
18 exempt. The tax imposed by this chapter on endoparasitocides and ectoparasitocides shall be  
19 deposited in the veterinary student tuition and animal disease research and diagnostic laboratory  
20 fund to be used for veterinary student tuition grants and the operations and activities conducted  
21 by the State Animal Disease Research and Diagnostic Laboratory established in § 13-58-13.

22 Section 23. That § 10-12A-4 be amended to read as follows:

23 10-12A-4. The department may enter into tax collection agreements with any Indian tribe  
24 under the provisions of this chapter and chapter 1-24. These agreements may provide for the

collection of any of the following state taxes and any tribal taxes imposed by a tribe that are identical to the following state taxes:

- (1) The retail sales and service tax imposed by chapter 10-45;
- (2) The use tax imposed by chapter 10-46;
- (3) The contractors' excise tax imposed by chapter 10-46A;
- (4) The alternate contractors' excise tax imposed by chapter 10-46B;
- (5) The cigarette tax imposed by chapter 10-50;
- (6) The motor vehicle excise tax imposed by chapter 32-5B;
- (7) The fuel excise tax imposed by chapter 10-47B;
- (8) The wholesale tax on tobacco products imposed by chapter 10-50;
- (9) The amusement device tax imposed by chapter 10-58; ~~or~~
- (10) The gross receipts tax on visitor related businesses imposed by chapter 10-45D;
- (11) The excise tax on farm machinery, attachment units, and irrigation equipment imposed by this Act.

The agreement may provide for the retention by the department of an agreed-upon percentage of the gross revenue as an administrative fee.

Section 24. Sections 1 to 20, inclusive, are effective on April 1, 2006.

Section 25. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

951M0347

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1167** - 02/09/2006

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Wick, Boomgarden, Buckingham, Cutler, Deadrick, Dykstra, Faehn, Frost, Garnos, Glover, Hackl, Halverson, Heineman, Hennies, Hills, Hunhoff, Hunt, Jensen, Klaudt, Koistinen, Kraus, Krebs, Lange, McCoy, McLaughlin, Michels, Murschel, Nelson, Novstrup, Pederson (Gordon), Putnam, Rausch, Rave, Rhoden, Rounds, Schafer, Sebert, Street, Tidemann, Turbiville, Van Etten, Vehle, Weems, and Willadsen and Senators Knudson, Apa, Bogue, Broderick, Duenwald, Earley, Gray, Kelly, Koskan, Lintz, McNenny, Peterson (Jim), Smidt, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to create a tax relief fund and to dedicate certain sales and  
2 use tax revenue received by the state through the Streamlined Sales and Use Tax Agreement.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby created in the state treasury the tax relief fund. The revenue  
5 collected pursuant to section 2 of this Act shall be deposited in the tax relief fund for the  
6 purpose of reducing the rate of taxation or reducing property taxes. The fund shall be invested  
7 as provided by law, and the interest earned shall be credited to the fund. The Legislature may  
8 not appropriate any money from the tax relief fund until the second fiscal year after Congress  
9 approves legislation giving states the authority to require retailers to collect South Dakota's sales  
10 and use tax.

11 Section 2. The additional net revenue received by the state from voluntary retail licensees



1 shall be deposited in the tax relief fund created pursuant to section 1 of this Act. For the  
2 purposes of this Act, a voluntary retail licensee is any person licensed through the Streamlined  
3 Sales and Use Tax Agreement to remit sales and use tax pursuant to chapters 10-45 and 10-46  
4 who does not otherwise have a legal obligation to remit such taxes.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

337M0059

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1180** - 02/17/2006

Introduced by: Representatives O'Brien, Cutler, Garnos, Haley, Hunhoff, Jensen, Murschel, Nelson, Roberts, and Tidemann and Senators Duenwald, Abdallah, Dempster, Hansen (Tom), Knudson, Olson (Ed), Smidt, and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to prohibit certain acts of child abuse and endangerment  
2 and to provide penalties therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 It is a Class 1 misdemeanor for any parent, guardian, or custodian as defined in § 26-7A-1  
7 to willfully deprive a child of necessary food, clothing, shelter, medical care, or supervision  
8 appropriate to the child's age, if the parent or guardian is reasonably able to make the necessary  
9 provision and if the deprivation harms or endangers the child. However, if the deprivation  
10 results in serious bodily injury the violation is a Class 6 felony.

11 Section 2. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 It is a Class 6 felony for any parent, guardian, or custodian to knowingly permit physical or  
14 sexual abuse of a child.



1       It is an affirmative defense, to be proven by clear and convincing evidence, to prosecution  
2       under this section if, at the time of the offense, there was a reasonable belief that acting to stop  
3       or to prevent the abuse would result in substantial bodily harm to the defendant or the child in  
4       retaliation.

5       Section 3. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as  
6       follows:

7       It is a Class 1 misdemeanor for any person to knowingly cause a child to be present where  
8       any person is using, distributing, or manufacturing methamphetamines.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

139M0022

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1181** -

02/16/2006

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Jerke, Boomgarden, Davis, Deadrick, Dykstra, Fryslyie, Hennies, Hunhoff, Jensen, Koistinen, Kraus, Putnam, and Rave and Senators Koskan, Abdallah, and Broderick

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding humane societies.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 40-2-1 be amended to read as follows:

4 40-2-1. Any three or more citizens of this state ~~who have heretofore or who shall hereafter~~  
5 ~~incorporate as a body corporate under the general laws for incorporation~~ organized as a  
6 nonprofit corporation in this state, for the purpose of preventing cruelty to animals, may avail  
7 themselves of the privileges of this chapter through an animal control officer subject to the  
8 limitations in sections 2 and 3 of this Act. The board of county commissioners in each county  
9 may grant authority to exercise the privileges and authority granted by this section to one or  
10 more qualified nonprofit corporations for a period of up to three years based upon ability to  
11 fulfill the purposes of this chapter.

12 Section 2. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as  
13 follows:



1       The board of directors of a humane society incorporated pursuant to § 40-2-1 may appoint  
2       society members to act as animal control officers. The appointment shall be in writing. The  
3       appointment is effective in a particular county only if an appointee obtains written authorization  
4       from a circuit court judge having jurisdiction in the county in which the appointee seeks to  
5       enforce this chapter or chapter 40-1. To obtain judicial authorization, an appointee seeking  
6       judicial authorization shall provide evidence satisfactory to the judge that the appointee has  
7       experience, education, or training that has prepared the appointee to assume the powers granted  
8       to animal control officers pursuant to section 3 of this Act. The board of directors shall review  
9       appointments every three years and may revoke an appointment at any time by filing a certified  
10      revocation with the circuit court that approved the appointment. Any authorization may not  
11      exceed three years or trustee termination, whichever occurs first.

12      Section 3. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as  
13      follows:

14      Any law enforcement agency may enforce the provisions of this chapter or chapter 40-1. An  
15      animal care and control agency may enforce the provisions of this chapter or chapter 40-1 in a  
16      county or municipality if the legislative authority of the county or municipality has entered into  
17      a contract with the agency to enforce the provisions of this chapter and chapter 40-1. An animal  
18      control officer enforcing this chapter or chapter 40-1 shall comply with the same constitutional  
19      and statutory restrictions concerning the execution of police powers imposed on a law  
20      enforcement officer who enforces this chapter, chapter 40-1, and other criminal laws. An animal  
21      control officer has the following enforcement powers when enforcing this chapter:

22      (1)    The power to issue citations based on probable cause to offenders for misdemeanor  
23              and felony violations of this chapter or chapter 40-1;

24      (2)    The power to request that a law enforcement officer arrest and take into custody any

1 person the animal control officer has probable cause to believe has committed or is  
2 committing a violation of this chapter or chapter 40-1. An animal control officer may  
3 make an oral complaint to a prosecuting attorney or a law enforcement officer to  
4 initiate an arrest. The animal control officer causing the arrest shall file with the  
5 arresting agency a written complaint within twenty-four hours of the arrest, excluding  
6 Sundays and legal holidays, stating the alleged act or acts constituting a violation;

7 (3) The power to carry protective devices, other than firearms, for personal protection;

8 (4) The power to prepare affidavits in support of search warrants and to execute search  
9 warrants when accompanied by law enforcement officers to investigate violations of  
10 this chapter or chapter 40-1, and to seize evidence of those violations.

11 Section 4. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 For the purposes of this chapter and chapter 40-1, an animal care and control agency is any  
14 municipal or county animal control agency or authority authorized to enforce municipal or  
15 county ordinances regulating the care, control, licensing, or treatment of animals within the  
16 municipality or county, and any nonprofit corporation organized under § 40-2-1 that contracts  
17 with a municipality or county to enforce the municipal or county ordinances governing animal  
18 care and control.

19 Section 5. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 For the purposes of this chapter and chapter 40-1, an animal control officer is any person  
22 employed, contracted, or appointed pursuant to section 3 of this Act by an animal care and  
23 control agency or humane society to aid in the enforcement of ordinances or laws regulating the  
24 care and control of animals.

1       Section 6. That § 40-2-3 be repealed.

2       ~~40-2-3. Any member, officer, or agent of any such society so incorporated who shall by the~~  
3       ~~secretary of such society be duly authorized in writing and confirmed by the board of directors,~~  
4       ~~and if within a municipal corporation, approved by the mayor or president of the board of such~~  
5       ~~municipality, and if within a county beyond the limits of a municipal corporation, approved by~~  
6       ~~the circuit judge and sworn in the same manner as are peace officers, may interfere to prevent~~  
7       ~~the inhumane treatment of any animal pursuant to § 40-2-4 and may use such force as may be~~  
8       ~~necessary to prevent such inhumane treatment and to that end may summon to his aid any peace~~  
9       ~~officer. He may make arrests for the violation of any of the provisions of chapter 40-1, in~~  
10       ~~accordance with the provisions of § 40-2-4 in the same manner as other peace officers. Such~~  
11       ~~member, officer, or agent shall, when making such arrest, exhibit the badge adopted by the~~  
12       ~~society of which he is a member, officer, or agent.~~

13       Section 7. That chapter 40-1 be amended by adding thereto a NEW SECTION to read as  
14       follows:

15       A veterinarian licensed in the State of South Dakota shall be in attendance during any  
16       portion of an investigation of a commercial breeding operation that is conducted on the premises  
17       of the commercial breeding operation. For purposes of this section the term, commercial  
18       breeding operation, means any person engaged in the business of breeding dogs or cats who  
19       sells, exchanges, or leases dogs or cats in return for consideration or who offers to do so,  
20       whether or not the dogs or cats are bred, raised, trained, groomed, or boarded by the person. Any  
21       person who owns or harbors three or fewer unaltered dogs or cats for breeding purposes that are  
22       at least six months of age is not a commercial breeding operation. Any person who sells,  
23       exchanges, or leases thirty or fewer dogs or cats in a twelve-month period is not a commercial  
24       breeding operation if all such dogs or cats are sold, exchanged, or leased to a final owner rather

1 than for later retail sale or brokered trading. Any person knowingly selling, exchanging, or  
2 leasing any dogs or cats for later retail sale or for brokered trading is a commercial breeding  
3 operation.

4 Section 8. That § 40-1-5 be amended to read as follows:

5 40-1-5. Any peace officer, agent of the board, or agent or officer of any humane society  
6 finding an animal inhumanely treated, as defined in § 40-1-2.4, shall, pursuant to a warrant or  
7 court order, cause the animal to be impounded or otherwise properly cared for, and the  
8 expenses of such impoundment or care shall be a lien on the animal to be paid before the animal  
9 may be lawfully recovered. However, a warrant or court order is not necessary if the animal is  
10 severely injured, severely diseased, or suffering and any delay in impounding the animal would  
11 continue to cause the animal extreme suffering or if other exigent circumstances exist. If any  
12 animal is impounded or subjected to other action under this section without a warrant or court  
13 order, the officer or agent shall subsequently show cause for the impoundment or other action  
14 to the court, and the court shall issue an order ratifying the impoundment or action; or, if  
15 sufficient cause for the impoundment or action is not shown, the court shall order the return of  
16 the animal to the owner or other appropriate remedy.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

347M0300

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1197** - 02/16/2006

Introduced by: Representatives Kroger, Bradford, Dennert, Elliott, Frysliie, Gassman, Gillespie, Glover, Haley, Halverson, Hargens, Hennies, Howie, Lange, Miles, O'Brien, Roberts, Sigdestad, Street, and Thompson and Senators Koetzle, Bartling, Gray, Hanson (Gary), Hundstad, Kloucek, Kooistra, Moore, Nesselhuf, Sutton (Dan), and Two Bulls

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the reduction of  
2 unemployment benefits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 61-6-20 be amended to read as follows:

5 61-6-20. An individual is not entitled to any benefits for a week for which ~~he~~ the individual  
6 is receiving, has received, or will receive remuneration in the form of:

7 (1) Termination, vacation, holiday, severance, or dismissal payments or wages in lieu of  
8 notice whether legally required or not. However, in the case of lump sum  
9 termination, vacation, holiday, severance, or dismissal payments, the lump sum  
10 payment shall be allocated over a period of weeks equal to the lump sum divided by  
11 the employee's regular pay while employed. However, the payment shall be applied  
12 for a period of weeks immediately following the last day of work. Payments made to  
13 an individual based entirely on ~~his~~ the individual's contributions to a fund from which



1 the payments are made are not vacation pay;

2 (2) Compensation for temporary partial disability under the workers' compensation law  
3 of any state or under a similar law of the United States; or

4 (3) The prorated weekly amount of any pension, annuity or retirement payment including  
5 disability pension payments, based on the previous work of the individual. This  
6 subdivision applies only to ~~primary social security retirement benefits and to~~  
7 payments made under a plan contributed to by a base period employer. This does not  
8 apply to payments made under Title II of the Social Security Act or the Railroad  
9 Retirement Act of 1974, to military service-connected disability payments or to that  
10 part, if any, of a pension, annuity or retirement payment that is attributable to  
11 contributions of the individual. However, this subdivision shall apply to payments  
12 made under Title II of the Social Security Act or the Railroad Retirement Act of 1974  
13 until the balance of the unemployment trust fund reaches thirty million dollars at the  
14 end of any calendar quarter.

15 If ~~such~~ the remuneration is less than the benefits which would otherwise be due under this  
16 chapter, ~~he~~ the individual shall receive for ~~such~~ the week, if otherwise eligible, benefits reduced  
17 by the amount of ~~such~~ the remuneration.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

571M0617

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1209** - 02/16/2006

Introduced by: Representatives Cutler, Bradford, Brunner, Buckingham, Dykstra, Gassman, Haley, Haverly, Hennies, Hills, Hunt, Jensen, Klaudt, Kraus, McCoy, Murschel, Rausch, Roberts, Schafer, Sigdestad, Street, Turbiville, Van Etten, and Willadsen and Senators Dempster, Abdallah, Bogue, Duenwald, Earley, Gray, Greenfield, Hanson (Gary), Knudson, Moore, Napoli, Nesselhuf, Olson (Ed), Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding money lending.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 54-4-36 be amended to read as follows:

4 54-4-36. Terms used in ~~§§ 54-4-36 to 54-4-63, inclusive, and §§ 54-4-65 and 54-4-66~~ this  
5 chapter mean:

6 (1) "Advertisement," a commercial message in any medium that aids, promotes, or  
7 assists, directly or indirectly, the sale of products or services;

8 (2) "Commission," the State Banking Commission;

9 (3) "Director," the director of the Division of Banking of the Department of Revenue and  
10 Regulation;

11 (4) "Division," the Division of Banking;

12 (5) "Finance charge," the amount, however denominated, which is ~~paid or payable for~~  
13 ~~the privilege of paying for goods or services in one or more installments at the~~



1 ~~beginning of the transaction~~ the direct or indirect cost payable by a borrower for a  
2 loan;

3 (6) "Financing institutions," any person engaged in the business of creating and holding  
4 or purchasing or acquiring retail installment contracts;

5 (7) "Installment loan," a loan made to be repaid in specified amounts over a certain  
6 number of months;

7 (8) "License," a license provided by §§ ~~54-4-36 to 54-4-63~~, inclusive this chapter;

8 (9) "Installment loan contract" or "contract," an agreement evidencing a installment loan  
9 transaction;

10 (10) "Licensee," any person holding a license;

11 (11) "Loan," any installment loan, single pay loan, or open-end loan which may be  
12 unsecured or secured by real or personal property; ~~and~~

13 (12) "Payday loan," any ~~small~~, short-maturity loan on the security of a check, any  
14 assignment of an interest in the account of a person at a depository institution, any  
15 authorization to debit the person's deposit account, ~~or~~ any assignment of salary or  
16 wages payable to a person. A short-maturity loan made in anticipation of an income  
17 tax refund is not a payday loan for purposes of this chapter.;

18 (13) "Regional revolving loan fund," a regional revolving loan fund with a service area  
19 of at least five South Dakota counties, a designated staff for loan processing and  
20 servicing, a loan portfolio of at least one million dollars, and which is governed by  
21 a board of directors that meets at least quarterly;

22 (14) "Short-term consumer loan," any loan to any individual borrower with a duration of  
23 six months or less, including a payday loan. A title loan is not a short-term consumer  
24 loan for purposes of this chapter;

(15) "Title lender," a regulated lender authorized pursuant to this chapter to make title loans; and

(16) "Title loan," a loan for a debtor that is secured by a nonpurchase money security interest in a motor vehicle and that is scheduled to be repaid in a single installment.

Section 2. That § 54-4-58 be amended to read as follows:

54-4-58. The licensee shall disclose in any loan contract the following:

- (1) The amount and date of the loan;
- (2) The amount of the down payment, if any;
- (3) The dates any payments are due and the amount of payments;
- (4) A list of any property used to secure the loan;
- (5) Any liens or title filings required;
- (6) The method used to compute the charges;
- (7) An explanation of ~~the charges~~ any fee or charge, including the cost of the loan as an annual percentage rate (APR);
- (8) Any fee or charge that may be applied for delinquency;
- (9) The conditions for an extension of payment or maturity of the loan; ~~and~~
- (10) Refinancing requirements, including any fee or charge; and
- (11) The address and telephone number of the Division of Banking and that any improprieties in making the loan or in loan practices may be referred to the division.

The licensee shall provide a copy of the loan contract to the debtor. A violation of this section is a Class 2 misdemeanor.

Section 3. That § 54-4-65 be amended to read as follows:

54-4-65. No licensee may renew, rollover, or flip a ~~payday~~ short-term consumer loan more than four times. No renewal, rollover, or flip is valid unless, at the time of the renewal, rollover,

1 or flip, the debtor pays the outstanding fee at the time of the renewal and reduces the principal  
2 amount of the loan as provided in this section. Upon the first renewal, rollover, or flip and each  
3 subsequent renewal, rollover, or flip, the debtor shall reduce the principal amount of the loan  
4 by not less than ten percent of the original amount of the loan.

5 Section 4. That § 54-4-40 be amended to read as follows:

6 54-4-40. Any person who engages in the business of lending money shall apply for a license  
7 as prescribed by §§ ~~54-4-36 to 54-4-63, inclusive~~ this chapter. The applicant shall apply for a  
8 license under oath on forms supplied by the division. The application shall contain the name of  
9 the applicant's business, proof of surety bond, address of the business, the names and addresses  
10 of the partners, members, officers, directors, or trustees, and other information the director may  
11 consider necessary. The applicant shall pay an original license fee as set by rules of the  
12 commission promulgated pursuant to chapter 1-26 not to exceed one thousand dollars. If the  
13 application of an existing licensee is for an additional location, the application need only include  
14 the location and identity of the location manager, plus any changes from the existing license,  
15 or such other information the director may consider necessary. The State of South Dakota, any  
16 political subdivision of the state, and any quasi-governmental organization created by an  
17 executive order of the State of South Dakota and any subsidiary of such organization; any  
18 nonprofit corporation formed pursuant to chapter 47-22; any nonprofit United States Treasury  
19 Community Development Financial Institution, Small Business Administration Certified  
20 Development Company, or Regional Revolving Loan Fund; or any commercial club, chamber  
21 of commerce, or industrial development corporation formed pursuant to § 9-12-11 or 9-27-37  
22 is subject to this chapter but exempt from initial license fees, renewal fees, and surety bond  
23 requirements under this chapter.

24 Section 5. That § 54-4-42 be amended to read as follows:

54-4-42. The applicant shall submit with the application for a license a bond in an amount not to exceed the total of ten thousand dollars for the first license and two thousand five hundred dollars for each additional license. The bond shall be satisfactory to the director and issued by a surety company qualified to do business as a surety in this state. The bond shall be in favor of this state for the use of this state and any person who has a cause of action under §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter against the licensee. The bond shall be conditioned on:

(1) The licensee's faithful performance under §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter and any rules adopted pursuant to §§ ~~54-4-36 to 54-4-63, inclusive~~ this chapter; and

(2) The payment of any amounts that are due to the state or another person during the calendar year for which the bond is given.

The aggregate liability of a surety to all persons damaged by a licensee's violation of §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter may not exceed the amount of the bond.

Section 6. That § 54-4-48 be amended to read as follows:

54-4-48. The director may issue a cease and desist order from any practice that does not conform to the requirements set forth in §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter or any commission rule, order, or condition imposed in writing, or any federal statute, rule, or regulation pertaining to consumer credit. A cease and desist order may be issued to any licensee or to any person engaging in the business of lending money without a license. A licensee aggrieved by such order may appeal pursuant to chapters 1-26 and 1-26D.

Section 7. That § 54-4-51 be amended to read as follows:

54-4-51. In addition to any other means provided by law for the enforcement of a restraining order or injunction, the court, in which the action is brought, may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents,

1 and records, as the court may deem reasonably necessary to prevent violations of ~~§§ 54-4-36 to~~  
2 ~~54-4-63, inclusive~~ this chapter. The receiver, when so appointed and qualified, shall control the  
3 custody, collection, administration, and liquidation of the property and business.

4 Section 8. That § 54-4-53 be amended to read as follows:

5 54-4-53. Any money received by the division pursuant to ~~§§ 54-4-36 to 54-4-63, inclusive,~~  
6 this chapter shall be deposited in the banking revolving fund.

7 Section 9. That § 54-4-55 be amended to read as follows:

8 54-4-55. Except for taxes on real property and license fees and other fees imposed by ~~§§ 54-~~  
9 ~~4-36 to 54-4-63, inclusive~~ this chapter, the tax imposed in § 54-4-54 is in lieu of all other taxes  
10 and license fees, state, county, or local, upon the business of the licensee, or upon any money,  
11 credits, or other assets of the licensee whether tangible or intangible, and which money, credits,  
12 or other assets are used for or in connection with the conduct of business transacted in South  
13 Dakota. However, amounts determined to be in excess of business capital requirements are not  
14 exempt from other taxes.

15 Section 10. That § 54-4-57 be amended to read as follows:

16 54-4-57. The division may annually, or as often as the director considers necessary, conduct  
17 an examination of business records and accounts of any licensee licensed under ~~§§ 54-4-36 to~~  
18 ~~54-4-63, inclusive~~ this chapter. The director may charge back to the licensee any cost associated  
19 with an on-site examination. The director may waive an on- site examination and only require  
20 an annual self-examination. If a licensee conducts a self-examination, the licensee shall provide  
21 any information requested under oath and on forms provided by the division by order or rule.  
22 The provisions of § 51A-2-35 apply to records and examination reports required under this  
23 chapter.

24 Section 11. That § 54-4-64 be amended to read as follows:

1        54-4-64. The provisions of §§ ~~54-4-36 to 54-4-63, inclusive~~, this chapter do not apply to any  
2 person selling goods or services and providing financing for such goods or services.

3        Section 12. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5        A title loan shall be evidenced by a written agreement in which a title lender agrees to make  
6 a title loan to a debtor and the debtor agrees to give the title lender a security interest in a motor  
7 vehicle owned by the debtor. The debtor shall give the title lender possession of the certificate  
8 of title to such motor vehicle. Except as otherwise provided in this chapter, the provisions of  
9 chapter 57A-9 apply to title loans and to persons engaged in the business of making title loans.

10       Section 13. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12       Any title loan shall be for an initial term of no more than one month but may be renewed for  
13 additional one-month periods. No title loan may be renewed more than four times. No title loan  
14 is valid unless, at the time of the renewal, the debtor makes a payment of at least ten percent of  
15 the original principal amount of the title loan, in addition to any finance charges that are due.  
16 If at any renewal requiring a principal reduction, the debtor has not made previous principal  
17 reductions adequate to satisfy the current required principal reduction, and the debtor does not  
18 pay at least ten percent of the original loan amount, the title lender may either declare the debtor  
19 in default or renew the title loan and defer the required principal payment for an additional  
20 period. However, no further finance charges may accrue or be earned against the principal  
21 amount so deferred. For purposes of this section, a renewal is any extension or continuation of  
22 a title loan for an additional period without any change to the title loan or its terms other than  
23 a reduction in principal.

24       Section 14. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 If a debtor defaults in the repayment of a title loan, the title lender's sole remedy is to seek  
3 possession and sale of the motor vehicle securing the loan, and the title lender may not pursue  
4 the debtor personally in any action or proceeding for repayment of the loan or for any deficiency  
5 after the sale. The title lender shall return to the debtor any surplus obtained after the sale that  
6 is in excess of the amount owed on the loan after any reasonable expenses of repossession,  
7 storage, and sale, including court costs and attorney's fees have been deducted. The remedy  
8 limitation provided in this section does not apply in the following circumstances:

9 (1) If a debtor obtains a title loan from a title lender under false pretenses by not  
10 disclosing the existence of a valid prior lien or security interest affecting the motor  
11 vehicle; or

12 (2) If the debtor intentionally conceals, impairs, or destroys the collateral.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

529M0546

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1215** - 02/17/2006

Introduced by: Representatives Hunt, Brunner, Deadrick, Dykstra, Gillespie, Glenski, Haverly, Heineman, Howie, Hunhoff, Jensen, Jerke, Klaudt, Koistinen, Kraus, Krebs, Lange, McCoy, Michels, Miles, Nelson, Novstrup, Pederson (Gordon), Rausch, Rhoden, Tornow, Turbiville, Van Etten, Weems, Wick, and Willadsen and Senators Bartling, Abdallah, Earley, Kelly, Kloucek, Koskan, McNenny, Moore, Napoli, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to establish certain legislative findings, to reinstate the  
2 prohibition against certain acts causing the termination of an unborn human life, to prescribe  
3 a penalty therefor, and to provide for the implementation of such provisions under certain  
4 circumstances.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. The Legislature accepts and concurs with the conclusion of the South Dakota  
7 Task Force to Study Abortion, based upon written materials, scientific studies, and testimony  
8 of witnesses presented to the task force, that life begins at the time of conception, a conclusion  
9 confirmed by scientific advances since the 1973 decision of Roe v. Wade, including the fact that  
10 each human being is totally unique immediately at fertilization. Moreover, the Legislature finds,  
11 based upon the conclusions of the South Dakota Task Force to Study Abortion, and in  
12 recognition of the technological advances and medical experience and body of knowledge about  
13 abortions produced and made available since the 1973 decision of Roe v. Wade, that to fully



1 protect the rights, interests, and health of the pregnant mother, the rights, interest, and life of her  
2 unborn child, and the mother's fundamental natural intrinsic right to a relationship with her  
3 child, abortions in South Dakota should be prohibited. Moreover, the Legislature finds that the  
4 guarantee of due process of law under the Constitution of South Dakota applies equally to born  
5 and unborn human beings, and that under the Constitution of South Dakota, a pregnant mother  
6 and her unborn child, each possess a natural and inalienable right to life.

7 Section 2. That chapter 22-17 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 No person may knowingly administer to, prescribe for, or procure for, or sell to any pregnant  
10 woman any medicine, drug, or other substance with the specific intent of causing or abetting the  
11 termination of the life of an unborn human being. No person may knowingly use or employ any  
12 instrument or procedure upon a pregnant woman with the specific intent of causing or abetting  
13 the termination of the life of an unborn human being.

14 Any violation of this section is a Class 5 felony.

15 Section 3. That chapter 22-17 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 Nothing in section 2 of this Act may be construed to prohibit the sale, use, prescription, or  
18 administration of a contraceptive measure, drug or chemical, if it is administered prior to the  
19 time when a pregnancy could be determined through conventional medical testing and if the  
20 contraceptive measure is sold, used, prescribed, or administered in accordance with  
21 manufacturer instructions.

22 Section 4. That chapter 22-17 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 No licensed physician who performs a medical procedure designed or intended to prevent

1 the death of a pregnant mother is guilty of violating section 2 of this Act. However, the  
2 physician shall make reasonable medical efforts under the circumstances to preserve both the  
3 life of the mother and the life of her unborn child in a manner consistent with conventional  
4 medical practice.

5 Medical treatment provided to the mother by a licensed physician which results in the  
6 accidental or unintentional injury or death to the unborn child is not a violation of this statute.

7 Nothing in this Act may be construed to subject the pregnant mother upon whom any  
8 abortion is performed or attempted to any criminal conviction and penalty.

9 Section 5. That chapter 22-17 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Terms used in this Act mean:

12 (1) "Pregnant," the human female reproductive condition, of having a living unborn  
13 human being within her body throughout the entire embryonic and fetal ages of the  
14 unborn child from fertilization to full gestation and child birth;

15 (2) "Unborn human being," an individual living member of the species, homo sapiens,  
16 throughout the entire embryonic and fetal ages of the unborn child from fertilization  
17 to full gestation and childbirth;

18 (3) "Fertilization," that point in time when a male human sperm penetrates the zona  
19 pellucida of a female human ovum.

20 Section 6. That § 34-23A-2 be repealed.

21 ~~34-23A-2. An abortion may be performed in this state only if it is performed in compliance~~  
22 ~~with § 34-23A-3, 34-23A-4, or 34-23A-5.~~

23 Section 7. That § 34-23A-3 be repealed.

24 ~~34-23A-3. An abortion may be performed by a physician during the first twelve weeks of~~

1 ~~pregnancy. The abortion decision and its effectuation must be left to the medical judgment of~~  
2 ~~the pregnant woman's attending physician during the first twelve weeks of pregnancy.~~

3 Section 8. That § 34-23A-4 be repealed.

4 ~~— 34-23A-4. An abortion may be performed following the twelfth week of pregnancy and~~  
5 ~~through the twenty-fourth week of pregnancy by a physician only in a hospital licensed under~~  
6 ~~the provisions of chapter 34-12 or in a hospital operated by the United States, this state, or any~~  
7 ~~department, agency, or political subdivision of either or in the case of hospital facilities not~~  
8 ~~being available, in the licensed physician's medical clinic or office of practice subject to the~~  
9 ~~requirements of § 34-23A-6.~~

10 Section 9. That § 34-23A-5 be repealed.

11 ~~— 34-23A-5. An abortion may be performed following the twenty-fourth week of pregnancy~~  
12 ~~by a physician only in a hospital authorized under § 34-23A-4 and only if there is appropriate~~  
13 ~~and reasonable medical judgment that performance of an abortion is necessary to preserve the~~  
14 ~~life or health of the mother.~~

15 Section 10. If any court of law enjoins, suspends, or delays the implementation of a  
16 provision of this Act, the provisions of sections 6 to 9, inclusive, of this Act are similarly  
17 enjoined, suspended, or delayed during such injunction, suspension, or delayed implementation.

18 Section 11. If any court of law finds any provision of this Act to be unconstitutional, the  
19 other provisions of this Act are severable. If any court of law finds the provisions of this Act to  
20 be entirely or substantially unconstitutional, the provisions of §§ 34-23A-2, 34-23A-3, 34-23A-  
21 4, and 34-23A-5, as of June 30, 2006, are immediately reeffective.

22 Section 12. This Act shall be known, and may be cited, as the Women's Health and Human  
23 Life Protection Act.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

749M0624

SENATE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1223** - 02/16/2006

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Heineman and McLaughlin

1 FOR AN ACT ENTITLED, An Act to require the Department of Education to include proposed  
2 legislation in the final report of the study of school funding, and to submit it to the  
3 Governor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That section 4 of chapter 94 of the 2005 Session Laws be amended to read as  
6 follows:

7 Section 4. The Department of Education shall provide an interim report to the Legislature  
8 no later than December 1, 2005. The interim report shall include preliminary findings regarding  
9 sparse schools, and a final report ~~shall follow no later than December 1, 2006, including~~  
10 proposed legislation which addresses each of the factors enumerated in section 2, shall be  
11 submitted to the Governor no later than December 1, 2006, and copies of the report shall be  
12 provided to the Legislature.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0681

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **HB 1236** - 02/16/2006

Introduced by: The Committee on Education at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to create the South Dakota Virtual High School.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. There is created the South Dakota virtual high school. The South Dakota virtual  
4 high school shall be under the control of the Department of Education. The South Dakota virtual  
5 high school shall provide choice accessibility, flexibility, quality, and equity in curricular  
6 offerings for high school-aged students in the state.

7 Section 2. The South Dakota Virtual High School Advisory Council is established. The  
8 council shall advise the Department of Education, the South Dakota Board of Education,  
9 education-related organizations, and other education groups on issues related to distance  
10 learning. The council shall meet quarterly with the Department of Education to discuss, develop,  
11 and make recommendations for the promulgation of rules concerning policies that affect  
12 distance delivery.

13 Section 3. The council shall consist of seven members appointed by the secretary of  
14 education with broadly based representation from entities involved in virtual education efforts  
15 statewide.



1       Section 4. Members of the council shall be appointed for two-year terms, except that four  
2       of the members of the initial council shall be appointed to two-year terms, and three of the  
3       members of the initial council shall be appointed for one year. All subsequent appointments  
4       shall be for terms of two years. Any vacancy on the council that occurs before the incumbent's  
5       term has expired shall be filled by appointment to serve the remainder of the unexpired term.  
6       The number of terms that a council member may serve is not limited.

7       Section 5. The Department of Education may promulgate rules pursuant to chapter 1-26 to  
8       coordinate course offerings by the South Dakota virtual high school, to award course credits  
9       earned by students taking classes from the South Dakota virtual high school, to establish fees  
10      or rates for school districts participating in the South Dakota virtual high school, and to establish  
11      criteria for school districts to participate in the South Dakota virtual high school. The fees or  
12      rates for participation in the virtual high school shall be reasonable and necessary to meet the  
13      budgetary needs of the virtual high school advisory council for such things as: review of course  
14      credits and offerings; network access; payment for course materials and instructors; testing; and  
15      the fee or rate for an individual course or offering may not exceed the cost of providing the  
16      course or offering.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0672      **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**  
**NO. HB 1237 - 02/03/2006**

Introduced by: The Committee on Appropriations at the request of the Governor

1    FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds for elderly and  
2       disabled persons and to revise the income eligibility requirements for property tax and sales  
3       tax refunds.

4    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5       Section 1. There is hereby appropriated from the state general fund the sum of one million  
6       dollars (\$1,000,000), or so much thereof as may be necessary, to the Department of Revenue  
7       and Regulation to provide refunds for real property tax and sales tax to elderly and disabled  
8       persons pursuant to chapters 10-18A and 10-45A. An amount not to exceed ten thousand dollars  
9       in fiscal year 2007 may be used for the administrative costs of this Act.

10      Section 2. The secretary of revenue and regulation shall approve vouchers and the state  
11      auditor shall draw warrants to pay expenditures authorized by this Act.

12      Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by  
13      June 30, 2007, shall revert in accordance with § 4-8-21.

14      Section 4. That § 10-18A-5 be amended to read as follows:

15      10-18A-5. The amount of refund of real property taxes due or paid for a single-member



1 household made pursuant to this chapter shall be according to the following schedule:

2	3 If household income is	4 more than:	5 \$ 0	6 <del>3,501</del> <u>3,751</u>	7 <del>3,761</del> <u>4,011</u>	8 <del>4,021</del> <u>4,271</u>	9 <del>4,281</del> <u>4,531</u>	10 <del>4,541</del> <u>4,791</u>	11 <del>4,801</del> <u>5,051</u>	12 <del>5,061</del> <u>5,311</u>	13 <del>5,321</del> <u>5,571</u>	14 <del>5,581</del> <u>5,831</u>	15 <del>5,841</del> <u>6,091</u>	16 <del>6,101</del> <u>6,351</u>	17 <del>6,361</del> <u>6,611</u>	18 <del>6,621</del> <u>6,871</u>	19 <del>6,881</del> <u>7,131</u>	20 <del>7,141</del> <u>7,391</u>	21 <del>7,401</del> <u>7,651</u>	22 <del>7,661</del> <u>7,911</u>	23 <del>7,921</del> <u>8,171</u>	24 <del>8,181</del> <u>8,431</u>	25 <del>8,441</del> <u>8,691</u>	26 <del>8,701</del> <u>8,951</u>	27 <del>8,961</del> <u>9,211</u>	28 <del>9,221</del> <u>9,471</u>	29 <del>9,481</del> <u>9,731</u>	but less than	<del>\$3,500</del> <u>\$3,750</u>	<del>3,760</del> <u>4,010</u>	<del>4,020</del> <u>4,270</u>	<del>4,280</del> <u>4,530</u>	<del>4,540</del> <u>4,790</u>	<del>4,800</del> <u>5,050</u>	<del>5,060</del> <u>5,310</u>	<del>5,320</del> <u>5,570</u>	<del>5,580</del> <u>5,830</u>	<del>5,840</del> <u>6,090</u>	<del>6,100</del> <u>6,350</u>	<del>6,360</del> <u>6,610</u>	<del>6,620</del> <u>6,870</u>	<del>6,880</del> <u>7,130</u>	<del>7,140</del> <u>7,390</u>	<del>7,400</del> <u>7,650</u>	<del>7,660</del> <u>7,910</u>	<del>7,920</del> <u>8,170</u>	<del>8,180</del> <u>8,430</u>	<del>8,440</del> <u>8,690</u>	<del>8,700</del> <u>8,950</u>	<del>8,960</del> <u>9,210</u>	<del>9,220</del> <u>9,470</u>	<del>9,480</del> <u>9,730</u>	<del>9,750</del> <u>10,000</u>	The refund of real	property taxes due	or paid shall be	35%	34%	33%	32%	31%	30%	29%	28%	27%	26%	25%	24%	23%	22%	21%	20%	19%	18%	17%	16%	15%	14%	13%	12%	11%
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10-18A-6. The amount of refund of real property taxes due or paid for a multiple-member household made pursuant to this chapter shall be according to the following schedule:

	If household income is	but not more than	The refund of real property taxes due or paid shall be
5			
6	more than:		
7			
8	\$ 0	\$6,250 \$6,500	55%
9	<del>6,251</del> <u>6,501</u>	<del>6,611</del> <u>6,861</u>	53%
10	<del>6,612</del> <u>6,862</u>	<del>6,972</del> <u>7,222</u>	51%
11	<del>6,973</del> <u>7,223</u>	<del>7,333</del> <u>7,583</u>	49%
12	<del>7,334</del> <u>7,584</u>	<del>7,694</del> <u>7,944</u>	47%
13	<del>7,695</del> <u>7,945</u>	<del>8,055</del> <u>8,305</u>	45%
14	<del>8,056</del> <u>8,306</u>	<del>8,416</del> <u>8,666</u>	43%
15	<del>8,417</del> <u>8,667</u>	<del>8,777</del> <u>9,027</u>	41%
16	<del>8,778</del> <u>9,028</u>	<del>9,138</del> <u>9,388</u>	39%
17	<del>9,139</del> <u>9,389</u>	<del>9,499</del> <u>9,749</u>	37%
18	<del>9,500</del> <u>9,750</u>	<del>9,860</del> <u>10,110</u>	35%
19	<del>9,861</del> <u>10,111</u>	<del>10,221</del> <u>10,471</u>	33%
20	<del>10,222</del> <u>10,472</u>	<del>10,582</del> <u>10,832</u>	31%
21	<del>10,583</del> <u>10,833</u>	<del>10,943</del> <u>11,193</u>	29%
22	<del>10,944</del> <u>11,194</u>	<del>11,304</del> <u>11,554</u>	27%
23	<del>11,305</del> <u>11,555</u>	<del>11,665</del> <u>11,915</u>	25%
24	<del>11,666</del> <u>11,916</u>	<del>12,026</del> <u>12,276</u>	23%
25	<del>12,027</del> <u>12,277</u>	<del>12,387</del> <u>12,637</u>	21%
26	<del>12,388</del> <u>12,638</u>	<del>12,750</del> <u>13,000</u>	19%
27	over <del>12,750</del> 13,000		No refund

28      Section 6. That § 10-45A-5 be amended to read as follows:

10-45A-5. The amount of any claim made pursuant to this chapter by a claimant from a household consisting solely of one individual shall be determined as follows:

- (1) If the claimant's income is three thousand ~~five hundred~~ seven hundred fifty dollars or less, a sum of two hundred fifty-eight dollars;
- (2) If the claimant's income is three thousand ~~five hundred one~~ seven hundred fifty-one dollars and not more than ~~nine thousand seven hundred fifty~~ ten thousand dollars, a sum of forty-six dollars plus three and four-tenths percent of the difference between ~~nine thousand seven hundred fifty~~ ten thousand dollars and the income of the claimant;
- (3) If the claimant's income is more than ~~nine thousand seven hundred fifty~~ ten thousand dollars, no refund.

Section 7. That § 10-45A-6 be amended to read as follows:

10-45A-6. The amount of any claim made pursuant to this chapter by a claimant from a household consisting of more than one individual shall be determined as follows:

- (1) If household income is six thousand ~~two hundred fifty~~ five hundred dollars or less, the sum of five hundred eighty-one dollars;
- (2) If household income is six thousand ~~two hundred fifty-one~~ five hundred one dollars and not more than ~~twelve thousand seven hundred fifty~~ thirteen thousand dollars, a sum of seventy-four dollars plus seven and eight-tenths percent of the difference between ~~twelve thousand seven hundred fifty~~ thirteen thousand dollars and total household income;
- (3) If household income is more than ~~twelve thousand seven hundred fifty~~ thirteen thousand dollars, no refund.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0671      **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**  
**NO. HB 1241 - 02/08/2006**

Introduced by: The Committee on Appropriations at the request of the Governor

1    FOR AN ACT ENTITLED, An Act to reappropriate certain moneys to fund sales tax on food  
2        refunds.

3    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4        Section 1. There is hereby reappropriated the sum of three million dollars (\$3,000,000) of  
5    general funds, or so much thereof as may be available, and one million two hundred fifty  
6    thousand dollars (\$1,250,000) of other fund expenditure authority, or so much thereof as may  
7    be available to the Department of Social Services to provide sales tax on food refunds for South  
8    Dakota families who need it most pursuant to chapter 55 of the 2005 Session Laws.

9        Section 2. The secretary of the Department of Social Services shall approve vouchers and  
10   the state auditor shall draw warrants to pay expenditures authorized by this Act.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

716M0295

## HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 58** - 02/15/2006

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to define gamma hydroxyl butyrate as a controlled  
2 substance.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-20B be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For the purposes of § 34-20B-20, the term, gamma hydroxyl butyrate, includes gamma-  
7 butyrolactone, 1,4-butanediol or any other substances which convert to gamma hydroxyl  
8 butyrate upon ingestion. However, the term does not include any product which is lawfully used  
9 for mechanical, industrial, manufacturing, or scientific purposes.

